



## DEPARTMENT OF ENERGY

### Bonneville Power Administration

[BPA File No.: TC-25]

### Proposed Modifications to Open Access Transmission Tariff; Public Hearing and Opportunities for Public Review and Comment

**AGENCY:** Bonneville Power Administration (Bonneville), Department of Energy (DOE).

**ACTIONS:** Notice of public hearing and opportunity to review and comment.

**SUMMARY:** Bonneville is initiating a proceeding pursuant to Bonneville's open access transmission tariff (Tariff) and the Federal Power Act to modify the non-rate terms and conditions for transmission and interconnection services in the Tariff. The proposed modifications to Bonneville's Tariff implement a first-ready, first-served cluster study process for all new large generator interconnection requests and establish the transition process available for pending requests received in Bonneville's queue as of 15 days after publication of this notice. The proposed modifications will be effective on June 30, 2024. Bonneville has designated this proceeding Docket No. TC-25.

**DATES:** *Prehearing Conference:* The TC-25 tariff proceeding will begin with a prehearing conference, which will be held virtually via WebEx at 10 a.m. on Tuesday, November 14, 2023.

*Intervention:* Anyone intending to become a party to the TC-25 tariff proceeding must file a petition to intervene on Bonneville's secure website. Petitions to intervene may be filed beginning on the date of publication of this notice and are due no later than 4:30 p.m. on Thursday, November 16, 2023. Part III of this notice, "Public Participation in TC-25," provides details on requesting access to the secure website and filing a petition to intervene.

**ADDRESSES:** Interested parties may obtain call-in information by accessing Bonneville's TC-25 tariff proceeding webpage at <https://www.bpa.gov/goto/tc25> or by contacting the Hearing Clerk at [tc25clerk@gmail.com](mailto:tc25clerk@gmail.com).

*Participant Comments:* Written comments by non-party participants must be received by Wednesday, November 22, 2023, to be considered in the Hearing Officer's recommended decision and the Administrator's Record of Decision (ROD). See Part III of this notice for more information about submitting participant comments.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Quinata, DKP-7, BPA

Communications, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; by phone toll-free at 1-800-622-4519; or by e-mail to [nyquinata@bpa.gov](mailto:nyquinata@bpa.gov).

The Hearing Clerk for this proceeding can be reached via e-mail at [tc25clerk@gmail.com](mailto:tc25clerk@gmail.com) or via telephone at (503) 479-8506.

Please direct questions regarding Bonneville's secure website to the Hearing Coordinator via e-mail at [cwgriffen@bpa.gov](mailto:cwgriffen@bpa.gov) or, if the question is time-sensitive, via telephone at (503) 230-5107.

*Responsible Official:* Rebecca Fredrickson, Manager of Transmission Rates, Tariff, Regulatory and Compliance, is the official responsible for the development of Bonneville's open access transmission tariff.

**SUPPLEMENTARY INFORMATION:**

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**Part I – Introduction and Procedural Matters**

*A. Introduction and Procedural Background*

The Bonneville Project Act of 1937, as reaffirmed in the Pacific Northwest Electric Power Planning and Conservation Act, grants the Bonneville Administrator broad authority to enter into contracts upon such terms and conditions and in such manner as the Bonneville Administrator may deem necessary. Bonneville's Tariff provides the generally applicable terms

and conditions for transmission and interconnection service across the Federal Columbia River Transmission System (FCRTS). Section 9 of the Tariff provides that the Bonneville Administrator may use the procedures set forth in Section 212(i)(2)(A) of the Federal Power Act to establish and modify non-rate terms and conditions of the Tariff. The Section 212(i)(2)(A) procedures include giving notice in the *Federal Register* and conducting a hearing that adheres to the procedural requirements of paragraphs (1) through (3) of Section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i) (the same procedures Bonneville uses to set rates). In accordance with these procedures, the Hearing Officer conducts one or more hearings as expeditiously as practicable to develop a full and complete record. Unless the Hearing Officer becomes unavailable to Bonneville, upon conclusion of the hearing, the Hearing Officer shall make a recommended decision to the Bonneville Administrator, and the Bonneville Administrator then makes a separate and final determination to establish or modify the Tariff terms and conditions (discussed further in Part III, Section C of this notice).

Bonneville's Rules of Procedure govern the TC-25 tariff proceedings. The rules are posted on Bonneville's website at <https://www.bpa.gov/energy-and-services/rate-and-tariff-proceedings/rules-of-procedure-revision-process>.

*B. Proposed Settlement for Modifications to the Tariff*

Starting in June, Bonneville engaged its transmission and interconnection customers and stakeholders in an attempt to reach settlement of the modifications to the Tariff for the TC-25 tariff proceeding. These discussions have resulted in the TC-25 Settlement Agreement, which includes the proposed Tariff modifications Bonneville is proposing to adopt in the TC-25 tariff proceeding. On September 1, 2023, Bonneville posted the TC-25 Settlement Agreement on Bonneville's website and set a deadline of September 15, 2023, for customers and stakeholders to inform Bonneville of any objections to the settlement. Bonneville did not receive any objections by the deadline. A summary of Bonneville's proposed Tariff modifications is provided in Part IV of this notice. A link to the TC-25 Settlement Agreement and proposed

Tariff are provided in Part V.

The TC-25 Settlement Agreement calls for Bonneville to file a motion with the Hearing Officer to establish a deadline for parties to either object to the proposed settlement or waive the right to contest the settlement. If no parties object to the settlement by the deadline set by the Hearing Officer, Bonneville's motion would request the Hearing Officer to issue a decision recommending the Bonneville Administrator adopt the TC-25 Settlement Agreement. Bonneville intends to file its motion soon after the TC-25 prehearing conference.

If a party objects to the TC-25 Settlement Agreement, Bonneville will notify all parties and decide how to proceed with respect to the Tariff modifications in the initial proposal.

*C. Proposed Procedural Schedule*

A proposed schedule for the proceeding is provided below. The proposed schedule assumes there are no objections to the proposed settlement in the TC-25 tariff proceeding. The official schedule will be established by the Hearing Officer and may be amended by the Hearing Officer as needed during the proceeding.

Prehearing Conference	November 14, 2023
BPA Files Initial Proposal	November 14, 2023
Deadline for Petitions to Intervene	November 16, 2023
Deadline for Objections to Settlement Agreement	November 22, 2023
Close of Participant Comments	November 22, 2023
Hearing Officer's Recommended Decision Issued	December 15, 2023
Final ROD	January 26, 2024

*D. Ex Parte Communications*

Section 1010.5 of the Rules of Procedure prohibits *ex parte* communications. *Ex parte* communications include any oral or written communication (1) relevant to the merits of any issue in the proceeding; (2) that is not on the record; and (3) with respect to which reasonable prior notice has not been given. The *ex parte* rule applies to communications with all Bonneville

and DOE employees and contractors, the Hearing Officer, and the Hearing Clerk during the proceeding. Except as provided, any communications with persons covered by the rule regarding the merits of any issue in the proceeding by other Executive Branch agencies, Congress, existing or potential Bonneville customers, nonprofit or public interest groups, or any other non-DOE parties are prohibited. The rule explicitly excludes and does not prohibit communications (1) relating to matters of procedure; (2) otherwise authorized by law or the Rules of Procedure; (3) from or to the Federal Energy Regulatory Commission (Commission); (4) that all litigants agree may be made on an *ex parte* basis; (5) in the ordinary course of business, about information required to be exchanged under contracts, or in information responding to a Freedom of Information Act request; (6) between the Hearing Officer and Hearing Clerk; (7) in meetings for which prior notice has been given; or (8) otherwise specified in Section 1010.5(b) of the Rules of Procedure. The *ex parte* rule remains in effect until the Bonneville Administrator's Final ROD is issued.

## **Part II – Scope of the TC-25 Tariff Proceeding**

The TC-25 tariff proceeding involves the proposed modifications to Bonneville's Tariff described in Part IV. This section provides guidance to the Hearing Officer regarding the specific issues that are outside the scope of the TC-25 tariff proceeding. In addition to the issues specifically listed below, any other issue that is not a Tariff term or condition issue is outside the scope of this proceeding.

Bonneville may revise the scope of the proceeding to include new issues that arise as a result of circumstances or events occurring outside the proceeding that are substantially related to the Tariff terms and conditions under consideration in the proceeding. *See* Rules of Procedure Section 1010.4(b)(8)(iii), (iv). If Bonneville revises the scope of the proceeding to include new issues, Bonneville will provide public notice on its website, present testimony or other information regarding such issues, and provide a reasonable opportunity to intervene and respond to Bonneville's testimony or other information. *Id.*

*A. Business Practices*

Bonneville's business practices provide implementation details for the Tariff and are outside the scope of the TC-25 tariff proceeding. Bonneville's decisions regarding the business practices are determined in other forums and follow the procedures in Bonneville's Business Practice Process. If business practices are developed for the proposed terms and conditions in this proceeding, such development will occur outside the terms and conditions proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Bonneville Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that proposes or challenges Bonneville's current and future business practices.

*B. Customer-Specific Contracts and Disputes*

Contracts and contract disputes between Bonneville and its customers are outside the scope of the TC-25 tariff proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Bonneville Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence related to contracts and contract disputes of Bonneville customers.

*C. Oversupply Management Protocol*

The Oversupply Management Protocol (Tariff Attachment P) includes the Tariff requirements and procedures used to moderate total dissolved gas levels in the Columbia River to protect endangered fish and other aquatic species. Bonneville does not propose to modify the terms of the Oversupply Management Protocol in the TC-25 tariff proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Bonneville Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence related to the terms of the Oversupply Management Protocol (Tariff Attachment P), including whether the Oversupply Management Protocol complies with orders of the Commission; whether Bonneville took all actions to avoid using the Oversupply Management Protocol, including the payment of negative prices to generators outside of Bonneville's balancing authority area; and issues

concerning the rates for recovering the costs of the Oversupply Management Protocol.

*D. Program Cost Estimates*

Bonneville's projections of its program costs and spending levels are not determined in terms and conditions proceedings and are outside the scope of the TC-25 tariff proceeding. These projections are determined by Bonneville in other forums, such as the Integrated Program Review public process, with input from stakeholders. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Bonneville Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that challenges the appropriateness or reasonableness of the Bonneville Administrator's decisions on costs and spending levels.

*E. Rates*

Pursuant to Bonneville's statutes, it must set rates to recover costs associated with providing power and transmission services. Bonneville's decisions regarding rates are outside the scope of the TC-25 tariff proceeding. Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Bonneville Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence related to rates, or that challenges the appropriateness or reasonableness of the Bonneville Administrator's decisions on rates or seeks in any way to propose revisions to the rates, including rate schedules, rate schedule provisions, rate designs, rate methodologies, rate forecasts, interest expense and credit, Treasury repayment schedules, non-Federal debt repayment schedules, revenue financing, calculation of depreciation and amortization expense, forecasts of system replacements used in repayment studies, transmission acquisition expenses incurred by Power Services, generation acquisition expenses, minimum required net revenue, increase in, or the use of, financial reserves, and the costs of risk mitigation actions resulting from the expense and revenue uncertainties included in the risk analysis.

**Part III – Public Participation in TC-25**

*A. Distinguishing Between “Participants” and “Parties”*

Bonneville distinguishes between “participants in” and “parties to” the TC-25 tariff

proceeding. Separate from the formal hearing process, Bonneville will receive written comments, views, opinions, and information from participants, who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants are not entitled to participate in the prehearing conference; may not cross-examine parties' witnesses, seek discovery, or serve or be served with documents; and are not subject to the same procedural requirements as parties. Bonneville customers that will receive transmission or interconnection service under the terms and conditions of the Tariff, or their affiliated customer groups, may not submit participant comments. Members or employees of organizations that have intervened in the proceeding may submit participant comments as private individuals (that is, not speaking for their organizations), but may not use the comment procedures to address specific issues raised by their intervenor organizations.

Written comments by participants will be included in the record and considered by the Hearing Officer and the Bonneville Administrator if they are received by Wednesday, November 22, 2023. Participants should submit comments through Bonneville's website at [www.bpa.gov/comment](http://www.bpa.gov/comment) or in hard copy to: BPA Public Involvement, DKS-7, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. All comments should contain the designation "TC-25" in the subject line.

#### *B. Interventions*

Any entity or person intending to become a party in the TC-25 tariff proceeding must file a petition to intervene through Bonneville's secure website (<https://ratecase.bpa.gov/>). A first-time user of Bonneville's secure website must create a user account to submit an intervention. Returning users may request access to the TC-25 tariff proceeding through their existing accounts and may submit interventions once their permissions have been updated. The secure website contains a link to the user guide, which provides step-by-step instructions for creating user accounts, generating filing numbers, submitting filings, and uploading interventions. Please contact the Hearing Coordinator via e-mail at [cwgriffen@bpa.gov](mailto:cwgriffen@bpa.gov) or, if the question is time-



sensitive, via telephone at (503) 230-5107 with any questions regarding the submission process.

A petition to intervene must conform to the format and content requirements set forth in Bonneville's Rules of Procedure Sections 1010.6 and 1010.11 and must be uploaded to the TC-25 tariff proceeding secure website by the deadline established in the procedural schedule.

A petition to intervene must state the name and address of the entity or person requesting party status and the entity or person's interest in the hearing. Bonneville customers and affiliated customer groups will be granted intervention based on petitions filed in conformance with Rules of Procedure. Other petitioners must explain their interests in sufficient detail to permit the Hearing Officer to determine whether the petitioners have a relevant interest in the hearing. The deadline for opposing a timely intervention is two business days after the deadline for filing petitions to intervene. Bonneville or any party may oppose a petition for intervention. All petitions will be ruled on by the Hearing Officer. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed within two business days after service of the petition.

### *C. Developing the Record*

The hearing record will include, among other things, the transcripts of the hearing, written evidence and arguments entered into the record by Bonneville and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. Upon conclusion of the hearing, the Hearing Officer will develop a recommended decision for the Bonneville Administrator. The Hearing Officer's recommended decision must be based on the record and include the Hearing Officer's findings and conclusions, including the reasons or bases thereof, on all material issues of fact, law, or discretion raised by the parties in their initial briefs. The Hearing Officer will review and certify the record to the Bonneville Administrator for final decision.

The Bonneville Administrator will make a final determination establishing or modifying Tariff terms and conditions based on the record, the Hearing Officer's recommended decision,

and such other materials and information as may have been submitted to or developed by the Bonneville Administrator. The Final ROD will be made available to all parties.

#### **Part IV – Summary of Proposed Modifications to Bonneville’s Tariff**

In this proceeding, Bonneville proposes to adopt, effective June 30, 2024, modifications to the large generator interconnection procedures (LGIP) in Attachment L to the Tariff and a new Attachment R to the Tariff that would provide for a transition to the modified LGIP. As described above, the specific Tariff modifications at issue are reflected in the TC-25 Settlement Agreement that was developed in discussions with customers and other stakeholders earlier this year.

The LGIP is Bonneville’s procedure for interconnecting generating facilities larger than 20 megawatts to the FCRTS. The proposed LGIP would replace the first-come, first-served serial interconnection study process in the current Tariff with a first-ready, first-served cluster study process. Under the proposed first-ready, first-served cluster study process, Bonneville will study a cluster of large generator interconnection requests that meet readiness requirements as opposed to studying each request serially. The proposed modifications to the LGIP include the details necessary to implement the new study process. The proposed modifications also provide for giving customers high-level information early in the interconnection process and allow customers to share costs of identified network upgrades.

The proposed Attachment R includes a process (“Transition Process”) to transition pending interconnection requests received prior to 15 after the publication of this *Federal Register* Notice (“Transition Close Date”) to the first-ready, first-served cluster study process. Under this Transition Process, interconnection requests may apply to continue to be processed in a serial study process or to be included in a Transition Cluster Study. Bonneville will not process any interconnection request submitted after the Transition Close Date until the opening of a new Cluster Request Window, following the requirements in the proposed revisions to the LGIP in Attachment L of Bonneville’s Tariff.

## **Part V – Proposed Tariff**

Bonneville’s proposed Tariff and the TC-25 Settlement Agreement are part of this notice and available to view and download on Bonneville’s website at <https://www.bpa.gov/goto/tc25>.

### **Signing Authority**

This document of the Department of Energy was signed on Tuesday, October 24, 2023, by John L. Hairston, Administrator and Chief Executive Officer of the Bonneville Power Administration, pursuant to delegated authority from the Secretary of Energy. This document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on November 1, 2023.

**Treena V. Garrett,**  
*Federal Register Liaison Officer,*  
*U.S. Department of Energy.*

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